

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

RAYSHAUN HUDSON,	:	
Petitioner,	:	
v.	:	Case No. 3:15-cv-146
CHARLOTTE JENKINS, Warden,	:	JUDGE WALTER H. RICE
Chillicothe Correctional	:	
Institution,	:	
Respondent.	:	

DECISION AND ENTRY ADOPTING UNITED STATES MAGISTRATE
JUDGE'S REPORT AND RECOMMENDATIONS (DOC. #15);
OVERRULING PETITIONER'S MOTION FOR RECONSIDERATION
(DOC. #12)

On October 8, 2015, the Court issued a Decision and Entry adopting the Magistrate Judge's September 11, 2015, Report and Recommendations, and dismissing the Petition for Writ of Habeas Corpus with prejudice. Doc. #10. On October 26, 2015, Petitioner filed a "Motion for Reconsideration and Motion to be Granted Permission to File Delayed Objection to Magistrate Report Based on the Fact the Petitioner Never Received a Copy of Said Report." Doc. #12.

Magistrate Judge Merz noted that the Petitioner's claim—that he did not receive a copy of the Report and Recommendations—was not supported by the record. Nevertheless, on October 27, 2015, he ordered the Clerk of Court to send another copy of the Report and Recommendations to Petitioner, and gave

Petitioner until November 13, 2015, to raise any objections he may have to that judicial filing by way of an Amended Motion to Alter the Judgment. Doc. #13.

On November 16, 2015, Respondent filed a Response in Opposition to the Motion for Reconsideration, attaching a copy of the jail's legal mail log, which shows that Petitioner received legal mail from the United States District Court for the Southern District of Ohio, on September 11, 2015. Respondent argued that, because Petitioner's claim that he did not receive a copy of the Report and Recommendations was false, the Motion for Reconsideration should be denied. Doc. #14.

On November 23, 2015, Magistrate Judge Merz issued another Report and Recommendations, Doc. #15, noting that Petitioner had failed to file an Amended Motion to Alter the Judgment within the time allotted. He therefore recommended that the Court overrule the Motion for Reconsideration.

On December 4, 2015, Petitioner filed a Reply to Respondent's Response in Opposition to the Motion for Reconsideration, Doc. #16. He admits that he did receive legal mail on September 11, 2015, but argues that it could not have been the September 11, 2015, Report and Recommendations, given that the Court did not even place it in the mail until that date. He therefore argued that "the relief sought should be granted, and the petitioner be granted 30 days to object, once a copy is sent." Doc. #16, PageID#966.

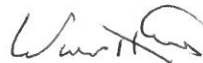
Ten days later, on December 14, 2015, Petitioner filed a Motion for Reconsideration of Magistrate Judge Merz's November 23, 2015, Report and

Recommendations, Doc. #17, arguing that, because of the confusion, he should now be given until January 7, 2016, to file his objection. On December 15, 2015, Magistrate Judge Merz issued a Notation Order denying Petitioner's December 14, 2015, Motion for Reconsideration.

The Court agrees with Petitioner that it would have been nearly impossible for him to have received the September 11, 2015, Report and Recommendations on the exact same date they were mailed to him. Nevertheless, the fact remains that, at Petitioner's request, another copy of that document was mailed to him on October 27, 2015, and Petitioner was given until November 13, 2015, to file objections by way of an Amended Motion to Alter the Judgment. Petitioner failed to file any such motion within the time allotted.

For this reason, the Court ADOPTS the United States Magistrate Judge's November 23, 2015, Report and Recommendations, Doc. #15, and OVERRULES Petitioner's Motion for Reconsideration, Doc. #12. The above-captioned case shall remain terminated on this Court's docket.

Date: December 21, 2015



WALTER H. RICE
UNITED STATES DISTRICT JUDGE